

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

In re:

DAVID R. GOOD
Debtor

LARRY S. EIDE, TRUSTEE
Plaintiff

v.

TOM TROLARD dba
Commemorative Guns
Defendant

CHAPTER 7
Case No.

L89-01577W

Adversary Proceeding No.
L90-0187W

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

SEP 21 1994

BARBARA A. EVERLY, CLERK

JUDGMENT

This proceeding having come on for trial or hearing before the court, the Honorable Paul J. Kilburg, United States Bankruptcy Judge, presiding, and the issues having been duly tried or heard and a decision having been rendered,

IT IS ORDERED AND ADJUDGED: As to the 40 sets of commemorative rifles, Plaintiff's Motion for Partial Summary Judgment is DENIED. FURTHER, for all of the reasons set forth herein Plaintiff's Motion for Partial Summary Judgment, as it relates to 11 Winchester Model 70 rifles, is GRANTED. FURTHER, judgment is entered in favor of Plaintiff and against Defendant Tom Trolard, dba Commemorative Guns, in the amount of \$10,000.



[Seal of the U.S. Bankruptcy Court]
Date of Issuance: September 21, 1994

BARBARA A. EVERLY
Clerk of Bankruptcy Court

By: *Michael A. Salay*
Deputy Clerk

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
SEP 21 1994
BARBARA A. EVERLY, CLERK

IN RE:)	
)	Chapter 7
DAVID R. GOOD,)	
)	
Debtor.)	Bankruptcy No. L89-01577W

LARRY S. EIDE,)	
Chapter 11 Trustee,)	
)	Adversary No. L90-0187W
Plaintiff,)	
)	
vs.)	
)	
TOM TROLARD, d/b/a)	
COMMEMORATIVE GUNS,)	
)	
Defendants.)	

RULING ON MOTION FOR PARTIAL SUMMARY JUDGMENT

On August 26, 1994, the above-captioned matter came on for hearing on Plaintiff's Motion for Partial Summary Judgment. Hearing was held by telephone conference call. Plaintiff Larry S. Eide appeared with Attorney Randy Nielsen. Defendant Tom Trolard appeared pro se. Oral arguments were presented after which the Court took the matter under advisement.

This is an adversary proceeding arising out of the Bankruptcy case of Debtor David Roger Good. Debtor filed a Chapter 11 Petition on October 16, 1989. This was subsequently converted to a Chapter 7 on March 5, 1991. At the time of conversion, Plaintiff was appointed as Chapter 7 Trustee. Plaintiff, in his capacity as Trustee, filed the present adversary complaint on September 27, 1990.

The record reflects that Debtor David R. Good was involved in the purchase and sale of rifles, carbines, pistols and knives of a commemorative or collectible nature. While dealing in this particular market, Debtor conducted business on a regular basis with Defendant. Defendant does business under the name of "Commemorative Guns". Defendant was involved with Debtor in the buying and selling of these commemorative guns before the filing of the bankruptcy petition. The pending motion for partial summary judgment arises out of these transactions.

The first transaction in controversy involves what is known as Texas Sesquicentennial Sets of Winchester Commemoratives. A set of these commemoratives consists of one Texas

Sesquicentennial Rifle, one Texas Sesquicentennial Carbine and a Texas Sesquicentennial Knife. These all had matching serial numbers and were placed in a wooden case for showing. One hundred fifty sets of these commemoratives were manufactured by the Winchester Company. It is the allegation of Plaintiff that in May of 1988 Defendant purchased 40 of the 150 original sets of these Winchester Commemoratives for Debtor. The purchase price for the 40 sets was approximately \$80,000. Allegedly, the commemorative sets were delivered to Debtor but were eventually returned to Defendant for sale. Plaintiff alleges that records indicate that Defendant sold at least 17 of these commemorative sets to various individuals around the world for approximately \$4,500 per set. As these commemorative sets were assets of the bankruptcy estate at the time of filing, Plaintiff seeks a return from Defendant of \$76,500.

The second transaction relates to 11 Winchester Model 70 rifles with serial numbers 923 through 933. Plaintiff asserts that on the date of commencement of the bankruptcy case, these 11 rifles were property of Debtor in the possession of Defendant. The rifles were subsequently sold for a total sale price of \$10,000. Plaintiff seeks a return of the \$10,000 as the proceeds of the sale of this property of the estate.

Defendant, in his response to the Motion for Summary Judgment, admits that he purchased 40 sets of commemorative rifles for \$2,000 per set. He says that he purchased all 40 sets for himself and in his own name. He alleges that he subsequently sold 32 of these commemorative sets to Debtor for \$2,500 per set. He says that he kept the remaining eight sets for himself.

Defendant states that subsequent to these initial transactions, he traded with Debtor for two of the 32 commemorative sets with other guns. Additionally, he seems to assert that of the remaining 30 sets, subsequent trading occurred between himself and Debtor in which Defendant reacquired some of these 30 sets. Defendant does not necessarily dispute the sales transactions alleged by Plaintiff nor does he necessarily contest the serial numbers of the sets involved in those transactions. What Defendant seems to be stating is that through a series of trade transactions between himself and Debtor, Defendant reacquired or never sold the serial numbers which were involved in the sales transactions. In other words, the short response of Defendant is that the 17 commemorative sets which were sold were the property of Defendant at the time of their sale and were not the property of Debtor or the estate.

Defendant admits that the 11 Winchester Model 70 rifles belonged to Debtor while they were in Defendant's possession. He also admits that he sold the rifles about March of 1994,

assuming that he had the right to do so, for \$10,000. Defendant states that if the Court determines that he inappropriately sold these rifles, he should be entitled nevertheless to his regular commission of 20% or \$2,000.

Fed.R.Civ.Proc. 56(c), which is made applicable to adversary proceedings pursuant to Fed.R.Bankr.Proc. 7056 provides that:

Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Hesitancy in granting summary judgment is no longer appropriate in light of the Supreme Court's recent decisions. Midwest Radio Co. v. Forum Pub. Co., 942 F.2d 1294, 1296 (8th Cir. 1991). Although the Eighth Circuit views summary judgment as a drastic remedy which must be exercised with extreme care, the Court has also recognized the principle that "summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the federal rules as a whole which are designed to secure the just, speedy and inexpensive determination of every action." Wabun-Inini v. Sessions, 900 F.2d 1234, 1238 (8th Cir. 1990) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 327, 106 S. Ct. 2548, 2554-55 (1986)). The moving party must show an absence of any genuine issue of material fact in order to succeed in its motion for summary judgment. In re Earhart, 68 B.R. 14, 15 (Bankr. N.D. Iowa 1986).

On the issue of the commemorative sets, the Court has considered the pleadings and the depositions attached to the motion, as well as the other matters contained in the file and the arguments of the respective parties. It is clear from the record that Debtor and Defendant had a long-term and ongoing business relationship involving the buying, selling and trading of various firearms. Plaintiff concludes that Debtor purchased 40 commemorative sets of Texas Sesquicentennial Winchester rifles prior to the commencement of the bankruptcy proceeding. Plaintiff asserts that Defendant had at least some of these sets in his possession post-petition and sold 17 sets for \$4,500 each for a total of \$76,500. Defendant admits that there were sales involving certain serial numbers of these sesquicentennial sets. However, he says they were his sets through trading with Debtor after the initial purchase of the 40 sets by Defendant. He concludes that none of the rifle sets which he sold on the world market were property of Debtor.

The Court has considered the entire record. Summary judgment can only be granted when no material facts exist which are in dispute. Ownership of these variously serial numbered sets is the critical issue. If the sets, identified by certain serial numbers, were the property of Defendant at the time of their sale, Plaintiff's motion must fail. If, however, the sets were the property of Debtor being sold by Defendant, they would constitute property of the estate which is recoverable by the Trustee. This issue is in substantial dispute and is completely factual in nature. This Court cannot conclude, as a matter of law, that these 17 sets, with specific serial numbers, were the property of Debtor at the times in question. As this factual dispute must be resolved before resolution of the controversy can be achieved, summary judgment, as to this series of transactions, must be and is hereby denied.

The second series of transactions relates to the 11 Winchester Model 70 rifles. It is undisputed that these 11 rifles were the property of Debtor at the commencement of this bankruptcy case. They are all Winchester Model 70 rifles and are described as follows:

<u>Caliber</u>	<u>Serial Number</u>
.222	923
.223	924
.22-250	925
.243	926
.257 Roberts	927
.25-06	928
7mm	929
.30-06	930
.308	931
.300 mag.	932
.270	933

Defendant admits that subsequent to March of 1994, he sold them for a total sale price of \$10,000. Though Defendant denies any malicious intent, intent is not a required element in the Court's analysis. Under § 542(a), a person who possesses property of the estate during the case must deliver to the trustee the property or the value of the property. The trustee is entitled to recover the value of estate property from any person who has wrongfully transferred such property after the filing of a bankruptcy petition, absent a showing by the transferor that the transfer was made in good faith and without notice or actual knowledge of the bankruptcy case. In re Gailey, Inc., 119 B.R. 504, 514 (Bankr. W.D. Pa. 1990). Admittedly, Defendant had actual knowledge of Debtor's bankruptcy case when he sold the guns.

If property in the possession of another is property of the estate, it is subject to turnover under § 542. In re Dunne Trucking Co., 32 B.R. 182, 188 (Bankr. N.D. Iowa 1983). The burden is on the trustee to show that the item is property of the estate. In re Washington, 137 B.R. 748, 750 (Bankr. E.D. Ark. 1992). Plaintiff has met this burden. The critical point, which is admitted and undisputed, is that these 11 rifles were property of the estate at the time of the commencement of these proceedings and were in the physical possession of Defendant. He disposed of this property and turned it into cash. This \$10,000 now becomes property of the estate and is recoverable by the Trustee.

Defendant requests that if it is determined that he inappropriately sold these rifles, he should, nevertheless, be entitled to a sales fee of 20% or \$2,000. It must be noted that, at the time of the sale, Defendant had not been appointed by the Court to dispose of these rifles. There had been no prior approval to dispose of these rifles at any price.

Defendant does not come within the definition of custodian under § 101(11) to be entitled to compensation for expenses incurred under § 543. In re Dencklau, 158 B.R. 796, 800 (Bankr. N.D. Iowa 1993). A creditor may refuse to turn over property if he possesses a valid right of setoff under § 553. In re Pester Ref. Co., 845 F.2d 1476, 1486 (8th Cir. 1987). However, in order to defeat a debtor's cause of action, the burden is on the creditor to establish a valid right of setoff. Id. Defendant has not met this burden. As this Court has already indicated, Defendant disposed of property of the estate in derogation of the rights of the Trustee. It is the conclusion of this Court that Defendant is not entitled to a sales fee associated with the sale of these rifles and the entire \$10,000 amount is recoverable by the Trustee.


In conclusion, it is the finding of this Court that there are no material facts in controversy. The 11 rifles were property of Debtor and are therefore property of the estate. These rifles were in the physical possession of Defendant who subsequently sold them to third parties without the knowledge or consent of the Trustee or prior approval of the Bankruptcy Court. It is the ultimate conclusion of this Court that summary judgment is appropriate and judgment will be entered in favor of the Plaintiff-Trustee and against Defendant in the amount of \$10,000.

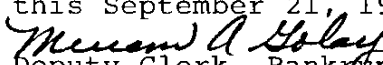
WHEREFORE, as to the 40 sets of commemorative rifles, Plaintiff's Motion for Partial Summary Judgment is DENIED.

FURTHER, for all of the reasons set forth herein, Plaintiff's Motion for Partial Summary Judgment, as it relates to 11 Winchester Model 70 rifles, is GRANTED.

FURTHER, judgment is entered in favor of Plaintiff and against Defendant Tom Trolard, d/b/a Commemorative Guns, in the amount of \$10,000.

SO ORDERED this 21 day of September, 1994.


Paul J. Kilburg
U.S. Bankruptcy Judge

Copy (W/judgment)
to Larry Eide,
Tom Trolard (2)
U.S. Trustee
this September 21, 1994

Deputy Clerk, Bankruptcy Court
PO Box 74890
Cedar Rapids, IA 52407

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

SEP 29 1994

BARBARA A. EVERLY, CLERK

IN RE:

DAVID R. GOOD,

Debtor.

CHAPTER 7

CASE NO. L-89-01577-W

LARRY S. EIDE, Chapter 7
Trustee,

Plaintiff

vs.

TOM TROLARD, d/b/a
Commemorative Guns,

Defendant.

ADV. NO. L-90-187-W

MOTION TO AMEND JUDGMENT
PURSUANT TO BANKRUPTCY
RULE 9023 AND FEDERAL
RULE OF CIVIL PROCEDURE
59

COMES NOW the Plaintiff in the above named matter and as his Motion to Amend Judgment Pursuant to Bankruptcy Rule 9023 and Federal Rule of Civil Procedure 59(e) states:

1. Partial summary judgment was entered in this matter on September 21, 1994, granting the Plaintiff judgment in the amount of \$10,000.00 against Defendant Tom Trolard.

2. This adversary action was originally filed September 27, 1990, and requested the return of certain firearms or their value, the cost of this action, and other equitable relief as the Court may deem appropriate.

3. The partial summary judgment entered by the Court on September 21, 1994, made no provision for prejudgment interest.

4. Prejudgment interest should ordinarily be granted absent exceptional or unusual circumstances. Stroh Container Co. v. Delphi Industries, Inc., 783 F.2d 743, 752 (8th Cir. 1986).

5. Prejudgment interest is awarded when the amount of damages is reasonably ascertainable and the claimant has been

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improperly denied the use of the funds or property during the course of litigation. Winter v. Cerro Gordo County Conservation Board, 925 F.2d 1069, 1073 (8th Cir. 1991).

6. Prejudgment interest on a federal judgment is calculated according to the applicable state prejudgment interest statute, in this case being Iowa Code §535.3. Id.

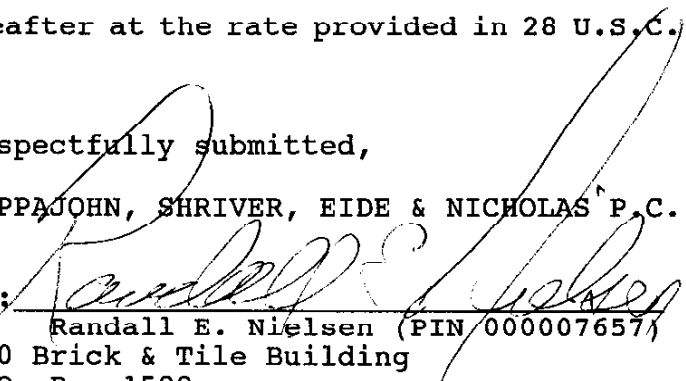
7. The Plaintiff in this matter is, therefore, entitled to an amendment to the judgment entered by the Court on September 21, 1994 so as to allow for prejudgment interest at the rate of 10% per annum on the judgment of \$10,000.00 from and after September 27, 1990 to September 21, 1994 (said prejudgment interest being in the amount of \$3,986.30), and to also allow for post-judgment interest subsequent to September 21, 1994, at the rate provided in 28 U.S.C. §1961 until said judgment is paid.

WHEREFORE, Plaintiff prays for the judgment entered September 21, 1994, in this matter to be amended so as to allow for prejudgment interest at the rate of 10% per annum from and after September 27, 1990 to and including September 21, 1994 and for post-judgment interest thereafter at the rate provided in 28 U.S.C. §1961.

Respectfully submitted,

PAPPAJOHN, SHRIVER, EIDE & NICHOLAS P.C.

By:


Randall E. Nielsen (PIN 000007657)
800 Brick & Tile Building
P.O. Box 1588
Mason City, IA 50402-1588
Telephone: (515) 423-4264
Attorneys for Plaintiff

Copy mailed to
Hinge 10/1/94

my

CERTIFICATION OF SERVICE

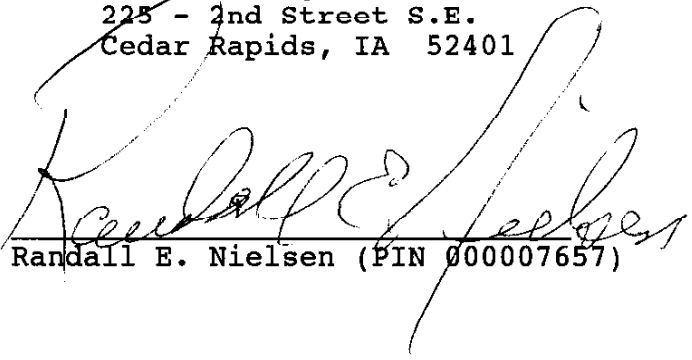
The undersigned certifies that on September 28, 1994, the foregoing document was served on the following parties by ordinary United States Mail, postage prepaid, addressed as follows:

Tom Trolard
340 Elk Way
Coos Bay, Oregon 97420

and

Tom Trolard
1310 East Third
Hope, Arkansas 71801

Wesley B. Huisinga
Office of U.S. Trustee
Northern District of Iowa
Law Building, Suite 400
225 - 2nd Street S.E.
Cedar Rapids, IA 52401



Randall E. Nielsen (PIN 000007657)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

In re:

DAVID GOOD
Debtor(s)

LARRY S. EIDE, TRUSTEE
Plaintiff

v.

TOM TROLARD
dba Commemorative Guns
Defendant

CHAPTER 7
Bankruptcy No.

L-89-01577-W

Adversary Proceeding No.
L90-0187W

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
OCT - 6 1994
BARBARA A. EVERLY, CLERK

NOTICE Setting **TELEPHONIC** Hearing re:
Motion to Amend Judgment

TO: Attorney for Plaintiff(s): Larry Eide
Attorney for Defendant(s): Tom Trolard
United States Trustee

515 423 4264
503 267 7074

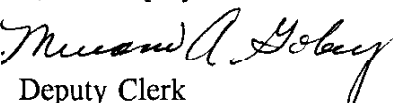
NOTICE IS HEREBY GIVEN the above matter(s) will come before the Court on:

October 28, 1994 at 10:00 a.m.

ATTORNEY FOR PLAINTIFF IS TO INITIATE THE TELEPHONE CALL. Parties should be ready and available to accept said call. The telephone number for Judge Paul J. Kilburg's chambers is **(319) 365-9507**. **NOTE: THIS HEARING WILL BE TAPED ON ELECTRONIC RECORDING EQUIPMENT.**

DATED October 6, 1994.

BARBARA A. EVERLY
Clerk, Bankruptcy Court

by 
Deputy Clerk
P.O. Box 74890
Cedar Rapids, IA 52407

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT L
NORTHERN DISTRICT OF IOWA
NOV 28 1994

IN RE:)	
DAVID GOOD,)	Chapter 7
Debtor.)	Bankruptcy No. L89-0157W
-----)	
LARRY S. EIDE, TRUSTEE)	
Plaintiff,)	Adversary No. L90-0187W
vs.)	
TOM TROLARD,)	
dba Commemorative Guns,)	
Defendant.)	

ORDER RE: PLAINTIFF'S MOTION TO AMEND JUDGMENT

On October 28, 1994, the above-captioned matter came on for telephonic hearing pursuant to assignment. Plaintiff Larry S. Eide appeared with Attorney Randy Nielsen. Defendant Tom Trolard appeared pro se. The matter before the Court is Plaintiff's Motion to Amend Judgment. After the presentation of evidence and arguments of counsel, the Court took the matter under advisement. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(E).

STATEMENT OF THE CASE

The issue before the Court is whether Plaintiff is entitled to prejudgment interest. Plaintiff, Larry S. Eide, Trustee, filed this adversary proceeding on September 27, 1990, requesting turnover from Defendant of certain firearms which were property of Debtor David Good. The Court entered partial summary judgment against Defendant on September 21, 1994. Plaintiff received a judgment in the amount of \$10,000, which constitutes the amount Defendant received from the March 1994 sale of Debtor's guns. The ruling did not provide for prejudgment interest.

Plaintiff asserts that interest should be granted on the \$10,000 judgment from the date of the commencement of the adversary proceeding on September 27, 1990, at a rate of 10 per cent in accordance with Iowa Code sec. 535.3. Defendant argues that no prejudgment interest should be awarded as the guns were

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available for the Trustee to collect at any time. Further, the guns were not sold and reduced to cash until March 29, 1994.

CONCLUSIONS OF LAW

Federal law controls the grant of interest in bankruptcy proceedings. In re Missionary Baptist Found., 69 B.R. 536, 538 (Bankr. N.D. Tex. 1987); In re Caslavka, No. 92-12304LC, Adv. 93-1049LC, slip op. at 1 (Bankr. N.D. Iowa March 31, 1994) (stating that interest awards in bankruptcy proceedings are governed by 28 U.S.C. § 1961, not Iowa Code sec. 535.3). Postjudgment interest on federal judgments is governed by 28 U.S.C. § 1961(a) which states that "interest shall be allowed on any money judgment in a civil case recovered in a district court." This statute applies to bankruptcy proceedings as the Bankruptcy Court is a division of the District Court. In re Haugen, 998 F.2d 1442, 1448 (8th Cir. 1993), cert. denied, 114 S. Ct. 925 (1994). The postjudgment interest rate is provided for as follows:

Such interest shall be calculated from the date of the entry of the judgment, at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment.

28 U.S.C. § 1961(a).

Neither the Bankruptcy Code nor any other federal statute specifically provides for prejudgment interest. Missionary Baptist, 69 B.R. at 537. However, such interest is not specifically prohibited either. Id. Despite the lack of statutory authority, it is in the equitable discretion of the Bankruptcy Court to grant prejudgment interest. Id. at 538; In re Suburban Motor Freight, Inc., 124 B.R. 984, 1005 (Bankr. S.D. Ohio 1990) (recognizing the Bankruptcy Court's authority to award prejudgment interest).

Prejudgment interest is typically awarded to compensate the prevailing party for the loss of the property or its value during the period the losing party wrongfully withheld such property. Stroh Container Co. v. Delphi Indus. Inc., 783 F.2d 743, 752 (8th Cir.), cert. denied, 476 U.S. 1141 (1986). Courts award prejudgment interest as a compensatory measure, not as a punitive device. In re Osage Crude Oil Purchasing, Inc., 103 B.R. 256, 264 (Bankr. N.D. Okla. 1989). It is appropriate to award prejudgment interest in turnover actions. In re Bridge,

106 B.R. 474, 477 (Bankr. E.D. Mich. 1989). Prejudgment interest is deemed necessary in turnover actions to carry out the statutory mandate of § 542 that the defendant deliver to the trustee "the value of the property." 11 U.S.C. § 542(a). The value of the property includes interest that has been denied the bankruptcy estate through the defendant's wrongful retention of the property. Bridge, 106 B.R. at 477.

No federal statute addresses the appropriate rate for prejudgment interest. Most courts hold that the Bankruptcy Court has discretion to determine the prejudgment interest rate. Bridge, 106 B.R. at 477 (stating that the average interest rate for the period the defendant wrongfully withheld the property, 8%, should be applied as the prejudgment interest rate); In re Gillett, 55 B.R. 675, 680 (Bankr. S.D. Fla. 1985) (using the state interest rate for prejudgment interest as 28 U.S.C. § 1961 did not provide a prejudgment interest rate). In the exercise of this discretion, many courts apply the § 1961 postjudgment rate to prejudgment interest. In re Southern Indus. Banking Corp., 87 B.R. 518, 523 (Bankr. E.D. Tenn. 1988). "In the absence of a specific statutory directive, it seems only logical that the Bankruptcy Court should apply the interest provided for in 28 U.S.C. § 1961 both pre- and post-judgment." Missionary Baptist, 69 B.R. at 539; In re H.P. King Co., 64 B.R. 487, 491-92 (Bankr. E.D.N.C. 1986) (noting that applying § 1961 to both prejudgment and postjudgment interest awards fosters uniformity of treatment in judgments).


The date on which prejudgment interest is to begin accruing is also left to the discretion of the Court. Bridge, 106 B.R. at 477. Prejudgment interest is typically awarded from the date turnover of the property was first demanded by the Trustee or from the date of the commencement of the proceeding seeking turnover of the property. Smith v. Mark Twain Nat'l Bank, 805 F.2d 278, 291 (8th Cir. 1986); In re Bostic, 171 B.R. 270, 274 (Bankr. N.D. Ohio 1994).


Based on the foregoing, the Court concludes that Plaintiff is entitled to prejudgment interest. Prejudgment interest shall accrue from the date Plaintiff filed the complaint in this adversary proceeding, September 27, 1990. Both prejudgment interest and postjudgment interest shall accrue at the Treasury Bill rate provided for in 28 U.S.C. § 1961(a) in effect on the date of the judgment, September 21, 1994.

WHEREFORE, Plaintiff is entitled to prejudgment interest from September 27, 1990 at the Treasury Bill rate provided for in 28 U.S.C. § 1961(a) in effect on September 21, 1994.

FURTHER, postjudgment interest is allowed at the same rate from the date of the judgment until said judgment is paid.

SO ORDERED this 28 day of November, 1994.


Paul J. Kilburg
U.S. Bankruptcy Judge

Copy to:
Larry Eide,
Tom Trolard
U.S. Trustee
this November 28, 1994

Deputy Clerk, Bankruptcy Court
PO Box 74890
Cedar Rapids, IA 52407

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

NOV 04 1998

GEORGE D. PRENTICE, II

IN RE:

DAVID R. GOOD,

Debtor.

CHAPTER 7

CASE NO. L-89-01577-W

LARRY S. EIDE,
Chapter 11 Trustee,

Plaintiff

vs.

TOM TROLARD, d/b/a
Commemorative Guns,

Defendant.

ADVERSARY NO. L-90-0187-W

ASSIGNMENT OF JUDGMENT

FOR VALUE RECEIVED, Plaintiff Larry S. Eide, Trustee, does hereby assign, transfer and set over unto **Pattison Bros. Mississippi River Terminal, Inc.** all of his right, title and interest in and to the Judgment entered herein on September 21, 1994, in the original amount of \$10,000.00.

The undersigned acknowledges that on November 28, 1997, a garnishment of the Defendant resulted in a recovery of \$9,209.50 of this Judgment. The funds garnished were applied first to interest accrued on the Judgment in the amount of \$4,217.49 with the balance applied to principal resulting in an unpaid balance of this Judgment as of November 28, 1997, in the amount of \$5,007.99.

The undersigned further acknowledges that interest continues to accrue on this Judgment from November 28, 1997, at the rate of 5.88% per annum.

This Assignment is given pursuant to authority of this Court.

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Dated this 3^d day of November, 1998.



Larry S. Eide, Trustee (PIN 000001380)
Pappajohn, Shriver, Eide & Nicholas P.C.
103 East State Street, Suite 800
P.O. Box 1588
Mason City, IA 50402-1588
Telephone: (515) 423-4264
Facsimile: (515) 423-3145

CERTIFICATION OF SERVICE

The undersigned certifies that on November 3, 1998, he mailed a copy of the foregoing document on the following parties by ordinary United States mail, postage prepaid, addressed as follows:

Barbara G. Stuart
United States Trustee
225 2nd Street S.E., Suite 400
Cedar Rapids, IA 52401

Dan Childers
Elderkin & Pirnie, P.L.C.
115 First Avenue S.E.
P.O. Box 1968
Cedar Rapids, IA 52406-1968

John W. Holmes
Holmes & Holmes
10 West 4th Street, Suite 300
Waterloo, IA 50704

Kristin Tolvstad
Asst U.S. Attorney (IRS)
P. O. Box 74950
Cedar Rapids, IA 52407-4950

Charles Hurley, Trial Attorney
Office of Special Litigation
U.S. Department of Justice
P. O. Box 7328
Ben Franklin Station
Washington, D.C. 20044

David R. Good
P.O. Box 312
Protivin, IA 52163

Iowa Department of Revenue &
Finance
John Waters, Attorney
Collections Section, 3rd Floor
P.O. Box 10457
Des Moines, IA 50306



Larry S. Eide (PIN 000001380)

*Copy to John Holmes
& Larry Eide*

11-4-98 me

PAPPAJOHN, SHRIVER, EIDE & NICHOLAS P.C. NOV 04 1998

LAWYERS

103 EAST STATE STREET, SUITE 800

MASON CITY, IOWA 50401

GEORGE D. PRENTICE, II

SOCRATES G. PAPPAJOHN
JAY M. SHRIVER
LARRY S. EIDE
GREGORY C. NICHOLAS
RANDALL E. NIELSEN
JAMES J. BRANDT
KRISTEN N. OLLENBURG

MAILING ADDRESS:
P.O. Box 1588
MASON CITY, IA 50402-1588

TELEPHONE (515) 423-4204
FAX (515) 423-3145

November 3, 1998

George D. Prentice, II, Clerk
U.S. Bankruptcy Court
P.O. Box 74890
Cedar Rapids, IA 52407

Re: Case No. L-89-01577W, David Roger Good

Dear George:

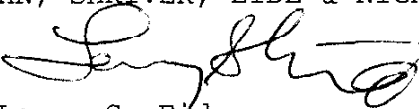
Enclosed please find for filing is the above Assignment of Judgment. Please file the original and return a stamped filed copy to myself and attorney John W. Holmes, who represents the assignee using the enclosed self addressed stamped envelopes.

If there is any fee for the filing of this Assignment please advise. We thank you for your attention to this matter.

Very truly yours,

PAPPAJOHN, SHRIVER, EIDE & NICHOLAS P.C.

By:



Larry S. Eide

LSE:
Encl.
cc: John W. Holmes